



DURHAM POLICE DEPARTMENT RESPONSE TO THE FADE COALITION POLICY RECOMMENDATIONS

Final Report to the Durham City Manager

Prepared by:
The Executive Command Staff of the Durham Police Department

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Durham Police Department Response to the FADE Coalition Policy Recommendations

Introduction

The FADE Coalition (2013) presented a list of policy recommendations to the City of Durham Human Relations Commission. In that document, the coalition characterized the Police Department's anti-crime efforts as "counterproductive and racially discriminatory". The coalition went on to accuse the department of practicing racial profiling and selective enforcement in the context of traffic stops and drug law enforcement and went on to list several requests for policy proposals. The Department researched and prepared this response to some of these proposals.

Policy Recommendation – End Current Racial Profiling Practices and Mandate Written Consent for All Vehicle Consent Searches

We don't presume to question the accuracy of data that we submit to the state; however, we do restate our position that it is unwise to make negative assumptions from raw data and we reiterate our affirmative denial that the Durham Police Department engages in, supports, or tolerates any type of systemic practice of racial profiling or other bias-policing practices. We acknowledge that the numerical data that is being put forth as statistical evidence illustrates a numerical disparity, but it does not offer any evidence or answers as to why that disparity exists. We respectfully submit that without additional statistical analysis, accusations of "institutional racism" and "discriminatory policing" are inaccurate and inappropriate. The coalition (2013) asserts, *"This is what the 2012 UNC traffic stop study and thirteen years of SBI data bear out – a department that is deeply suspicious towards black motorists and broadly deferential towards white ones."* We have already cautioned against using the Baumgartner study to make broad negative assumptions and we feel that we have provided sufficient documentation to support that position. We would again draw the reader's attention to the 2004 study conducted in Charlotte where the Police Department faced allegations very similar to those now being directed at the Durham Police Department. At the conclusion of the Charlotte study, Smith et al. (2004) noted that African-Americans constituted 65.4% of those persons subjected to a consent search; however, they concluded that,

“In general we have found that the prevalence in the number of stops of citizens in the pedestrian and in the vehicular context is not accounted for by the racial makeup of the census block groups . . . The number of African American consent searches in the vehicular context, also varies as a function of the number of incivility calls for service (prostitution, drugs, intoxicated pedestrians, and fights) in the same census block groups and is marginally affected by the success rate in consent searches in the vehicular context.”

The Durham Police Department already has a written Consent to Search Form. It is employed at the discretion of each officer based upon the totality of the circumstances. Some officers employ it on traffic stop searches and some don't. In any event, consent can always be denied with or without a form – it's just that simple. In point of fact, we have no way of knowing how often consent is denied because we don't track attempts to gain consent – only when it is given. The possibility that many more persons simply say “no” can't be ignored. We respectfully submit once again that there is no empirical evidence to support the allegation that such searches are being administered in a racially discriminatory fashion. We would also submit that it would be unwise to make any policy decision based on anecdotal evidence. We again reiterate our earlier statement that research has shown that most studies have concluded that the police departments are not engaging in racial profiling. We respectfully submit that nothing has been presented that clearly articulates a need for such a practice.

The coalition (2013) makes reference to United States v. Foster, 634 F.3d 243, 248 (4th Cir. 2011) stating that, “The Court of Appeals for the Fourth Circuit signaled its growing concern about North Carolina police using whatever facts are present, no matter how innocent, as indicia of suspicious activity.” While the case was a North Carolina case out of Henderson, and it rightly reversed the lower court's decision, the Court did not single out a growing concern for “North Carolina police” in its opinion. The court merely referred to the “Government” as it normally does in such opinions. Additionally, the admonishment issued by the court in its opinion was directed at the government in that particular case, not the broad brush admonishment of North Carolina police that is being portrayed.

The coalition (2013) states that, *“In many of the cases our coalition has been able to document, that “suspicious” behavior amounts to nothing more than something like being black and driving with out-of-state plates and a back seat full of luggage.”* First, the Department has

asked on more than one occasion for a member of this coalition and the NAACP to provide such documented examples so that we could initiate investigations. To date, no such information has been provided to the Department, while it has been referred to in this public statement. Second, suspicious behavior assessments are made based on actions observed or heard during an encounter viewed within the context of an officer's training and experience. Common behavior that may be viewed as normal by the layperson may be viewed as suspicious by a trained police officer. With respect to the traffic stop involving Pastor Dominique Gilliard, no information has been provided to the Department that would enable us to investigate the incident, and no complaint has been filed by Pastor Gilliard. However, attempts were made to contact Pastor Gilliard on October 21, 2013 since it has been alleged that the officer failed to report the search. We spoke with Pastor Gilliard on October 27, 2013 and he confirmed that he has never filed a complaint with our department. Someone heard his story while he was speaking at a workshop and referred the NAACP to him; however, no one has ever shared the information with our department so that we could investigate the matter. Pastor Gilliard cannot recall the officers' names, the date, time or incident location. In any event, we have requested that Pastor Gilliard email us an account of the incident and any other such information that may help us identify the particular officers. At this time, we are two or three years removed from this incident; however, we are making every effort to conduct a follow-up investigation, and if the officers' went outside the scope of what is allowed, then the appropriate corrective measures will be taken. We reiterate that giving consent is not mandatory. Consent that was given based on any overt behaviors or demands by the officer(s) that made him feel as if he had to comply would not have been a consent search. No such conduct is outlined in the coalition's version of events; in point of fact they clearly state that the officers asked to search his vehicle. The driver was not compelled to say "yes"; other motorists have and will continue to deny consent as they see fit. The fact that no contraband was uncovered does not confirm that the officers were wrong for asking for consent to search. As we stated earlier, it is not common practice to go on random expeditious searches of vehicles. It is a laborious process that isn't undertaken frivolously. Also, the fact that an officer chooses to exercise his or her discretion and not issue a traffic citation should not be misconstrued. It is not uncommon for officers to issue verbal warnings and we would submit that the motorists receiving such warnings appreciate them versus a citation with the accompanying costs.

The coalition (2013) has stated that the Durham Police Department's search disparities are similar to the Fayetteville Police Department's. We submit that the factors behind our stop data may not necessarily be the same as the factors contributing to the Fayetteville Police Department's stop data. Once again, disparity does not in and of itself indicate discrimination. Multiple factors contribute to a traffic stop and or search, and all of these factors need to be applied to the data and assessed before making any assumptions. The data as presented is a descriptive analysis and as the ACLU (2013, p. 29) so rightly stated, **"In other words, the data is used to describe the problem of racial disparities . . . and not to formally test a specific causal hypothesis as to why such disparities exist."** In short, the raw data should not be used to make causal assumptions as to why the disparities exist.

The coalition (2013) stated that, *"In sum, the department's own data, submitted monthly to the SBI pursuant to N.C.G.S. § 114-110.01, indicates that consent searches have become a tool of racial oppression in Durham."* In addition to being offensive and inflammatory, this statement is inaccurate. Consent means just that – it must be freely given or an officer can't conduct a search based on it. Additionally, the person granting consent can revoke it at any time and the officer must cease searching. Failure to stop searching would be an actionable complaint and a violation of the Fourth Amendment to the Constitution. The coalition goes on to say that, *"Black men are being asked for consent to search at a much greater rate than whites."* First, the data collected doesn't illustrate everyone who was asked – only those who granted consent. We don't document denials of consent. Again, there is no wrongdoing in asking for consent to search. The motorist can always say "no". With respect to the contraband hit rate, there is no standard percentage or ratio that is applicable. It is understood by those in our profession that we are not going to catch everyone.

Let us expound on consent searches a little more. The consent search is one of many investigative tools and techniques employed by proactive police officers all around the world. Richard Ashton wrote in a 2007 article:

"Traffic law enforcement regularly identifies those who have perpetrated – or who intend to commit – serious criminal acts . . . Registration irregularities contributed to Timothy J. McVeigh's apprehension just 75 minutes after the 1995 bombing of the Murrah Federal Building in Oklahoma City, as well as the 2002 arrest of a Utah driver with two corpses in his vehicle's trunk as he was en route

to commit a third murder; to the 2002 seizure of Washington D.C. snipers John A. Muhammad and John L. Malvo; to the 2005 safe recovery in Tennessee of two children who had been abducted by their father from Washington state two years earlier; and to the 2005 capture of one of Virginia's "10 Most Wanted," who was being sought for violating parole in conjunction with a 1994 second-degree murder conviction . . . **Competent and dedicated police officers legitimately detect anomalies during traffic stops and alertly "connect the dots" to solve more serious crimes."**

We can find examples of successful use of the consent search here in our City. It was through the use of the consent search that Sergeant. M. D. Berendsen was able to apprehend a violent criminal based on evidence observed during a consent search on a traffic stop. Had the sergeant been compelled to employ a written form, the violator would have had ample time to access a weapon and possibly harm the officer or flee. This suspect had committed a total of four robberies (one that very day), one burglary, and one sexual assault. The success of our Highway Interdiction Unit is another example of the proper use of the consent search. From June of 2006 till October of 2013 the Department's Highway Interdiction Unit conducted 12,681 documented traffic stops primarily on the interstate highways running through our city. These officers conducted 806 consent searches of the vehicle, 526 consent searches of drivers, and 124 consent searches of passengers. The sum of the results of that proactive work are as follows: **211 drug seizures of various types and amounts, 153 money seizures of various amounts, and 41 weapons seized.** That is just a small example of proactive police work. We firmly believe that the tax-paying citizens of Durham expect more from their police officers than sitting idly by waiting for a 911 call for service. We believe that our citizens' legitimate expectation is that we are actively seeking out criminals wherever we can find them to dissuade their illegal behavior. The consent search, properly employed, is an invaluable tool and we would respectfully caution against any effort to override subject matter experts and curtail the use of that tool.

Policy Recommendation – Make Marijuana Enforcement the Department's Lowest Law Enforcement Priority, and Increase the Availability of Pre-Trial Diversion Programs

The question of pre-trial diversion programs is not within the purview of the Department so we will not address that in this response.

The coalition (2013) stated that, *"African-Americans in Durham County are nearly nine times more likely to be incarcerated for drug crimes than whites, despite relatively equal usage rates."* The coalition further states that *African-Americans in Durham are approximately 300% more likely than whites to be arrested for misdemeanor marijuana possession, even though blacks and whites use the drug at roughly the same rate (11.7% of whites versus 12.7% of blacks).*" First, we are unsure as to the source and makeup of the data presented regarding the 300% arrest rate, and we would welcome the opportunity to see it. Regardless of the source of the data, we respectfully submit that no two arrests are the same and other variables such as identification, past criminal history, etc. play into arrest decisions. There is no specific targeting of African-Americans for drug crimes. Arrests are made based upon probable cause developed from verifiable information, plain-view observation, search warrants, Crimestoppers tips, etc. Investigations go where the information leads. With respect to the incarceration figures, we can't speak to that other than to say that the arrestees have a right to a trial and that's where such matters are decided. What we can say is this; the current law of the land dictates arrest and prosecution for possession, sale, and distribution of certain illegal drugs. Drug sales, usage, and the accompanying crime and quality of life issues that follow, are an ongoing problem in many communities. It is the responsibility of law enforcement to use every legal tool at its disposal to combat these issues for the benefit of the people living in these communities. It is the expectation of the tax-paying citizens of this city that their police department perform its job and work to address this problem; that means, identifying and arresting those persons involved in such activities no matter who or where they may be. Ultimately, the person or persons with the most control over incarceration are the violators themselves. There is more than enough public information regarding the ills of substance abuse and such information is readily available through a variety of mediums – no one should be unaware. The violators make a conscious decision to engage in an activity that they know is a crime. That choice has consequences and they know that there are risks involved and what they entail and they choose to engage in this particular criminal behavior. It is inappropriate to label violators as victims of the very consequences that they were fully aware of when they made their decision.

With respect to the issue of drug usage rates among the races, it would appear that the ACLU bases that statement on data reported by the U.S. Department of Health and Human Services. We reviewed the report issued by the U.S. Department of Health and Human Services.

First, we would respectfully submit that it is misleading to so narrowly and strongly apply the findings from a large national survey as illustrative of a smaller local issue. This usage rate was compiled via a national survey (2012): “This survey is the primary source of information on the use of illicit drugs, alcohol, and tobacco in the civilian, noninstitutionalized population of the United States age 12 years old or older. The survey interviews approximately 67,500 persons each year.” The interviewees are paid a \$30 stipend to participate so as to increase the response rate. This survey, and the accompanying analysis, is a highly technical and professional undertaking; however, the researchers themselves speak to potential errors and their causes. The researchers write in Appendix B.3, “The accuracy of survey estimates can be affected by nonresponse, coding errors, computer processing errors, errors in the sampling frame, reporting errors, and other errors not due to sampling. . . . Although these types of errors can be much larger than sampling errors, measurement of most of these errors is difficult.” In Appendix B.3.1 the researchers go on to say that, “Drug use surveys are particularly vulnerable to nonresponse because of the difficult nature of accessing heavy drug users.” Additionally, in Appendix B.3.2 the researchers state, “However, respondents could give inconclusive or inconsistent information about whether they ever used a given drug and, if they had used a drug, when they last used it.” In Appendix B.3.4, the researchers write, “Although studies generally have supported the validity of self-report data, it is well documented that these data may be biased (underreported or overreported). The bias varies by several factors, including the mode of administration, the setting, the population under investigation, and the type of drug.” We would respectfully submit that assumptions on drug use in this community shouldn’t be made based on a representative sampling taken from a nationwide survey.

The coalition (2013) stated that, “*Since Chief Lopez took office . . . the rate of marijuana arrests has increased by 71.5% . . . the city’s African-American community has been hardest hit by the increased focus on this victimless crime . . . The combination of North Carolina’s punitive criminal statutes, civil penalties, and DPD’s aggressive marijuana enforcement efforts has produced a litany of unjust outcomes.*” First, the Police Department doesn’t specifically engage in marijuana enforcement – we engage in drug enforcement. Second, unless one is going to make the claim that these arrests are false, and they are not, then the arrests were based on probable cause and as such are valid. Any fault for arrest lies solely with the violator.

The coalition (2013) stated that we are saturating certain neighborhoods with roving drug enforcement officers who stop and search pedestrians and motorists alike with little regard for their individual dignity or civil rights. This is a serious allegation and one that we would welcome an opportunity to investigate if such complaints were brought to our attention. The neighborhoods mentioned by the coalition all have long histories of drug activity, violent crime, and quality of life issues. We reiterate that failing to apply the appropriate resources to address these issues would be a dereliction of our duty as a police department. We would also point out once again that the people who have suffered under these conditions are also people of color who requested police action to address these problems in their communities.

In their presentation, the coalition (2013) relates the following story, *"In his newly-published memoir, Strangers at My Door, Durham minister and Random House author Jonathan Wilson-Hartgrove details his personal frustrations in dealing with H.E.A.T. officer while trying to advocate for a local quadriplegic man in his church who had been racially profiled, stopped, and searched by officers "hoping for a drug bust."* The author, Mr. Wilson-Hartgrove, filed a complaint against the officer alleging racial profiling and rude behavior. He further alleged that the vehicle was detained for an excessively long period of time suggesting that it was at least an hour. The complaint was thoroughly investigated and the aforementioned version of events is not an accurate characterization of this incident; the facts are as follows:

- The officer stopped the vehicle for failing to stop at a stop sign.
- The vehicle was occupied by three men, two of whom the officer knew from investigating drug activity in the neighborhood.
- The area where the officer stopped the vehicle had been the source of numerous drug complaints, some of which went directly to the City Manager. An email to that effect was included as an exhibit in the investigation of the complaint.
- The driver admitted that he didn't stop at the stop sign, but he also offered an explanation.
- Upon approaching the vehicle and interacting with the driver, it was determined that the driver did not have his driver's license with him which is also a violation of the traffic laws.

- The officer knew the handicapped passenger (who was not a quadriplegic) from working in the neighborhood. The passenger has a known criminal history of violent crimes and drug crimes, which may have played a role in the incident that caused his injury.
- The other passenger also has an extensive criminal record composed of violent crimes and drug crimes and gang involvement.
- The officer asked for consent to search the vehicle and was denied.
- Two of the passengers were asked to step out of the vehicle while a Police Canine conducted an exterior sniff of the vehicle. The handicapped passenger was allowed to remain in the vehicle in consideration for his condition. Such an exterior sniff of a vehicle by a Police Canine is allowed by law and does not require reasonable suspicion or probable cause as long as the motorist is not unreasonably detained.
- During this time, the officer was attempting to confirm the identity of the driver to give him the courtesy of not taking him to jail and allowing him to continue transporting the handicapped passenger to get something to eat.
- The Canine did not alert to the presence of illegal substances, the driver's identity and license was confirmed and they all were allowed to continue on their way.
- The entire traffic stop is documented in the dispatch system as lasting 22 minutes. The motorists were actually released sooner than that; however, the officer took time to document the encounter.
- During the follow-up interviews with the occupants of the vehicle, none of them complained about the officer's demeanor or made mention of any rudeness.
- The complainant responded to the scene after the traffic stop had been initiated.
- All of the aforementioned information was explained to the complainant by the Chief of Police during a meeting.

The coalition (2013) stated that, *"Because the pursuit of marijuana arrests seems to animate so many of the illegitimate stops we have heard of . . . asks the Human Relations Commission to submit a formal recommendation to the City Council asking that Durham designate marijuana enforcement as the city's lowest law enforcement priority (LLEP) . . . the department is placing too great an emphasis on boosting drug arrest numbers, often at the expense of community relations and the kind of real police work that can make an appreciable*

difference in our neighborhoods.” Once again, we don’t pursue marijuana arrests nor do we prioritize such investigations based on the type of drugs involved. As stated earlier, our drug investigations go where the information and evidence takes us. We don’t place any particular emphasis on drug arrest numbers - it’s a part of our work. Investigating drug complaints and making it difficult to openly sell drugs in the middle of a neighborhood contributes to improving the quality of life of the people who live in said neighborhood. We respectfully take issue with the implied characterization of drug investigation as not being real police work.

It is an unfortunate truth that the Office of National Drug Control Policy, or ONDCP, noted in its 2013 North Carolina Drug Control Update that Durham County has been designated as part of the Atlanta High Intensity Drug Trafficking Area, or HIDTA. The primary focus of the Atlanta HIDTA’s North Carolina initiatives continues to be investigating the operations of the Mexican-based drug cartels. **The North Carolina HIDTA counties are a primary corridor for the transportation of illicit narcotics throughout the Eastern United States and for the movement of illicit proceeds back to Mexico.** ONDCP (2013) goes on to say that marijuana, followed by cocaine, is the most commonly cited drug among primary drug treatment admissions in the state. Additionally, in 2007 1,125 persons died in North Carolina as a direct consequence of drug use compared to 1,116 by firearms. Combating the ongoing drug problem is a small part of law enforcement’s efforts to contribute to community safety and stability.

The coalition (2013) stated that, *“City leaders and the HRC should categorically reject DPD protestations that these enforcement patterns have a race-neutral explanation . . . the evidence is overwhelming that his officers’ enforcement patterns have at least been informed by some degree of unconscious or implicit bias and stereotyping . . . The real utility o the UNC-Baumgartner study is its ability to compare the criminal justice outcomes of similarly situated persons of different races.”* We restate that there is no pattern, practice, culture, or tolerance of bias-based policing within our department and our detractors have produced no evidence to support such an allegation. We further reiterate that we have provided sufficient supporting documentation to prohibit making any assumptions from the UNC-Baumgartner study. The Baumgartner study presumes that the only difference amongst drivers and their circumstances is race. We respectfully submit that while the study accurately describes the disparities, it makes no effort to address the variety of factors that may contribute to those disparities. **Finally,**

strategic deployment strategies have never been presented as the sole reason for these disparities; it was merely suggested as one possible contributing factor.

The coalition (2013) stated that, *"Although blacks and whites commit traffic offenses at a rate consistent with their representation in the overall driving population, see e.g., State v. Soto, 734 A.2d 350, 353-55(N.J. Ch. Div. 1996), one would never know it from reviewing the Durham PD stop data."* First, the case cited is a criminal case from the state of New Jersey in 1996. The case involved the New Jersey State Police and involved traffic stops on the New Jersey Turnpike. A review of the case revealed no such quote as the coalition has alleged. What was found was that four troopers testified that blacks drive indistinguishably from whites. This was their stated opinion and it was not supported by any data. At the time of that case, there was no study of driving behavior; however, we have already noted in an earlier response that writer Heather MacDonald (2002) reported on an independent follow-up study conducted in New Jersey that found that blacks actually were speeding more than whites in numbers that exceeded their percentage of the population. It was also noted in Soto that, "Statistics may be used to make out a case of targeting minorities for prosecution of traffic offenses **provided the comparison is between the racial composition of the motorist population violating the traffic laws and the racial composition of those arrested for traffic infractions on the relevant roadway patrolled by the police agency.**" *State v. Soto*, 734 A.2d 351 (N.J. Ch. Div. 1996). We respectfully submit that no such comparison was made in the Baumgartner study.

The coalition goes on to highlight the search patterns of one of our officers. While the data may be accurate, the coalition presents the data as though it evinces some discriminatory intent. The numbers don't say where the officer works, when the officer made the stops, what his or her primary assignment is or was, etc. As we have stated before, there are circumstances behind every traffic stop and there are numerous factors that can contribute to a search. That being said, the data suggests that we might need to at least take a closer look at that individual officer, and we fully intend to do so.

The coalition (2013) stated that, *"It is time that Durham holds itself to account for the ongoing civil rights violations being committed by the DPD against the city's African-American population as part of its routine traffic and drug enforcement efforts."* While it may be true that numbers don't lie, they also don't speak for themselves either. We respectfully submit that such

inflammatory accusations, sorely lacking any substantive proof, only serve to divide the community rather than build bridges to constructive dialogue. The Durham Police Department has been at the forefront of community engagement and partnership for over twenty years or more. We have shared great success in some of our most challenged communities through partnering with people of color throughout this city and being responsive to their requests and concerns. We respectfully submit that it is unreasonable to characterize a successful collaboration as ongoing civil rights violations absent substantive evidence.

The coalition (2013) goes on to recommend some training on diversity and racial equity. We would point out again that we undergo mandatory diversity training each year. Additionally, all of the Executive Staff just recently completed a separate diversity training sponsored by the City that was unique and well received. Additionally, the subject of diversity is a normal topic at the City Manager's Annual Fall Leadership Conference. That being said, in the interest of cooperative effort and pursuant to a conversation between our department and a group of local ministers, we are exploring some training that was recommended by that group as well. Neither the City nor our department has ever shied away from diversity training in an effort to improve both our workplace and our service delivery. Having said that, we take no issue with examining the training recommended by the coalition and that process is already underway.

Policy Recommendation – Create Inclusive Task Force to Investigate Civilian Review Board Best Practices

We have already spoken to most of these concerns earlier in our response and we refer the reader to page 27 of this response for review. We will respond to one additional point raised by the coalition (2012): *“On the rare occasion that the Professional Standards Division sustains and allegation of police misconduct, they provide the citizen with no information as to whether any corrective action has been taken. This lack of transparency breeds skepticism among even those who have seen their complaints vindicated through the police misconduct complaint process.”* It is a well-established fact that releasing information regarding disciplinary actions is prohibited by personnel privacy laws. Additionally, no one in the department can ever recall a citizen who received notification of a sustained finding and called to inquire as to what discipline was applied. The fact that the complainant is notified of the finding and instructed on how to

carry their complaint forward to the Civilian Review Board if necessary should negate any accusations of a lack of transparency.

Conclusion

The law enforcement profession has received its share of various types of criticism during its history – some of it deservedly so. Police officers are given great power and authority over the general public, and that power comes with great responsibility. The public enjoys a legitimate right to expect a higher standard of behavior from its police officers; however, police officers are people first and people are imperfect creatures. With over 500 sworn officers there will be mistakes made, and misconduct engaged in by some. A reasonable public expectation should be that there are clear policies and practices prohibiting misconduct; that allegations of misconduct are thoroughly and objectively investigated; and that appropriate discipline is administered where necessary. The Department's current detractors have a right to their opinion. We respect and appreciate their desire to voice their opinion and we will be the first to defend that right. However, we respectfully submit that there have not been sufficient facts or evidence presented to us that would necessitate immediate wholesale changes to our current policies and practices. We would also respectfully submit that our Department and the City have sound and robust policies in place to protect citizens and allow for a redress of any citizen concerns; however, we have no problem with further study being conducted on this issue. Furthermore, we welcome any constructive dialogue regarding police issues in our city; however, we must respectfully ask that facts and evidence of any concerns be presented; that we be given the opportunity to investigate concerns as they arise; and if the citizen is not satisfied, then he or she may exercise their right to take their concern to the next highest authority.

In closing, we must acknowledge that some members of the public have a perception that bias-based policing is actively being practiced by the Durham Police Department; and in a very real sense their perception is their reality. The Institute on Race and Justice, Northeastern University authored a report entitled *COPS Evaluation Brief No. 1, Promoting Cooperative Strategies to Reduce Racial Profiling* (2008). In that report, the authors noted the following:

"The authors of the Kerner Commission Report noted that "rigid social, economic, and educational barriers have prevented African-Americans in particular from fully participating in the mainstream of American life" (Report of

the United States National Advisory Commission on Civil Disorders [Kerner Commission], 1968: 207). They specifically note the damage done when members of minority communities perceive that the police are stopping minorities without an obvious reason (p. 303). The expression "driving while black" reflects the deep suspicion with which many in these communities continue to view the police. The danger is that when laws are enforced in a discriminatory or insensitive manner – or are perceived as so – traditional enforcement strategies may fuel this perception."

Consistent with that observation, we recognize that our proactive law enforcement efforts may be misperceived and there is a need for our department to explore ways and methods to mitigate this public perception. To that end we have obtained and reviewed the *COPS Evaluation Brief No. 1, Promoting Cooperative Strategies to Reduce Racial Profiling* prepared by the Institute on Race and Justice, Northeastern University (2008). **This research project, sponsored by the U.S. Department of Justice, identified six main areas for intervention efforts to respond to racial profiling:**

1. Recruitment and Selection:

We make considerable efforts to recruit women and minorities. Our recruiting unit is diverse in its make-up and they attend job fairs in a variety of locations to include historically black colleges and universities. Just recently, the unit held a "Women in Law Enforcement" open-house event which drew and estimated twenty-five interested ladies. Additionally, our staff at the executive level (lieutenants and above) is highly diverse and indicative of an agency that embraces diversity and achievement by merit.

2. Training and Education of Police and Community Members:

Our academy training exceeds the State mandated minimum in several categories. Recruits receive diversity training that expressly talks about racial profiling, and this is reinforced annually. With respect to the community members, we have a two-week Citizens' Police Academy which provides up-close exposure to police work in all areas of our department. We also have multiple partnerships with community groups through our Partners Against Crime groups, our Faith Acts initiative, and our coordinated community responses to crimes of violence.

3. Minority Community Engagement Initiatives:

Our officers participate in a variety of minority engagement activities such as our Police Athletic League, Police Reads program, and the Drug Free Junior Bulls program in partnership with the Durham Bulls baseball team and Drug Free NC to name a few. These activities put our officers in direct contact with minority children in some of our more challenged communities.

4. Accountability and Supervision:

All officers are rigorously trained on our policy that expressly prohibits bias-based policing which includes racial profiling. We have to undergo mandatory annual training on this subject along with legal updates regarding any changes to the law. Additionally, we employ an early-warning system software which tracks complaints against officers and flags an officer for mandatory corrective training once that officer's sustained complaints reach a certain threshold.

5. Collecting and Analyzing Traffic Stop Data:

This is mandated by state law. Additionally, our Staff Inspector prepares and analyzes our traffic stop data annually.

6. Using Technology to Reduce Racial Profiling and Increase Officer Safety:

We now have a reliable, in-car camera and microphone system to record officers' actions during traffic stops. This system has already proven beneficial by providing impartial evidence that exonerated officers who had complaints filed against them. We also employ a gps type system that documents an officer's location.

The Durham Police Department has been on the cutting edge with respect to utilizing these best practices for several years prior to these allegations. However, we are exploring the possibility of taking some additional measures as well:

- We are already engaging in constructive dialogue with one group of local clergy.
- We are investigating a variety of additional diversity training suggested by the Community Oriented Policing Services, U.S. Department of Justice as well as training suggested by one local community activist.

- It was suggested that some form of community representation be allowed time to address recruits during their academy training and talk about community relations and their importance – we are exploring this possibility.
- We are going to encourage members of the local clergy as well as local community leaders to complete one of our Citizens Police Academies to gain some insight into our profession.
- We will have our recruiting unit research the best method for engaging minority students at the High School level to stimulate interest and provide some insight on what needs to be done to be a successful applicant.
- We will explore the possibility of producing short video clips that provide some insight into police practices, and making them available to the public via our website and social media.
- We must maintain broad community faith and trust through one interaction at a time. This message will be pushed down to our officers to reaffirm our department's expectation of courteous and professional communication.

We fully intend to do our part to solidify the faith and trust that the public has invested in us as we continue working towards our shared goal of a safer community.

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